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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|---------------------------|---------------------|------------------|
| 09/874,327 | 06/06/2001 | William Christopher Duffy | 2339-0111P | 6116 |
| 2292 | 7590 | 09/01/2005 | EXAMINER | |
| BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747 | | | REDMAN, JERRY E | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3634 | |

DATE MAILED: 09/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/874,327

Applicant(s)

DUFFY, WILLIAM CHRISTOPHER

Examiner

Jerry Redman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2005.
 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-6,9,10,14,16 and 19-25 is/are pending in the application.
 4a) Of the above claim(s) 19-21 is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1, 2, 4-6, 9, 10, 14, 16, and 22-25 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____.
 4) ☐ Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____.
 5) ☐ Notice of Informal Patent Application (PTO-152)
 6) ☐ Other: _____.

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This application contains claims 19-21 drawn to an invention nonelected without traverse in Paper dated 8/8/2002. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claims 1, 2, 4-6, 9, 10, 14, 16, and 22-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claims 1 and 10, lines 1-2, it is not readily apparent to the Examiner if the applicant is claiming an access panel or an access panel in combination with a duct having an outer surface. Throughout the claims the applicant clearly and positively recites the duct, the opening, and the outer surface of the duct. If the applicant intends to claim the combination then the applicant should clearly and positively recite the duct having an opening and an outer surface in the preamble.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

As best understood, claims 1, 2, 4-6, 9, 10, 14, 16, and 22-25 are further rejected under 35 U.S.C. 103(a) as being unpatentable over Dugger in view of French patent No. 2719347 to Leon. Dugger discloses an access assembly comprising a duct (22), a fire

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resistant seal (74) having holes, a rectangular ("irregular shape") fire resistant cover member (10) the shape of the duct (22) a plurality of fasteners (see figure 2) including wing nuts for mounting the cover (10) to the duct. Dugger fails to disclose threaded spring clips. Leon discloses threaded spring clips. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the panel assembly of Dugger with spring clips as taught by French patent to Leon since spring clips allow for adjustability between the cover and the mounting surface.


The applicant's arguments have been considered but are not deemed persuasive. Firstly, the applicant argues that changes have been made to claims 1 and 10, which overcomes the 35 U.S.C. 2nd paragraph rejection. The applicant has failed to overcome the 35 U.S.C. 2nd paragraph rejection because the applicant has failed to positively recite the duct, the opening, and the outer surface of the duct in the preamble and yet the applicant has positively recited these elements in the body of the claim. Therefore, it is not readily apparent to the Examiner if the applicant is claiming an access panel or an access panel in combination with the duct having an opening and outer surface. Secondly, it appears that the applicant's arguments are more limiting than that of the claims. It appears that the applicant wants to claim just an access panel yet the applicant is arguing the combination of the access panel and duct having an opening and surface.

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THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Jerry Redman at telephone number 703-308-2120.


Jerry Redman
Primary Examiner